

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Krausz)	Examiner:	Huynh, Cong Lac
)		
Serial No.:	10/614,584)	Art Unit:	2178
)		
Filed:	July 7, 2003)	Attny Doc.:	10547.26US2
)		
Title:	System And Method For)		
	Generating Invoices Using)		
	A Markup Language)		

REPLY BRIEF

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Appellant hereby submits this Reply to the Examiner's Answer dated October 9, 2007.

The Commissioner is hereby authorized to charge any fee deficiency or credit
overpayment to deposit account number 50-2428 in the name of Greenberg Traurig.

REMARKS

In accordance with 37 CFR §§ 41.41(a)(1) and 41.43(b), Appellant hereby submits this Reply Brief in response to the Examiner's Answer.

Having considered the Examiner's Answer, it is respectfully submitted that, in rejecting claims under 35 U.S.C. § 103, it is incumbent upon the Examiner to establish a factual basis to support the legal conclusion of obviousness. In re Fine, 837 F.2d 1071 1073 (Fed. Cir. 1988). In so doing, it is impermissible for the Examiner to simply reach conclusions based on the Examiner's own understanding or experience - or on his or her assessment of what would be basic knowledge or common sense. Rather, the Examiner must point to some concrete evidence in the record in support of these findings. In re Zurko, 258 F.3d 1379, 1386 (Fed. Cir. 2001). Thus, the Examiner must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the Examiner's conclusion.

With these requirements for maintaining a rejection under 35 U.S.C. § 103 in mind, it is respectfully submitted that it is clear that the rejection of the claims was made by the Examiner impermissibly relying on unsupported conclusions of what the Examiner felt would have been obvious as opposed to what is actually described within the references of record. For example, the Examiner has stated that the claimed invention would have been obvious since "...it was well known that the purchasing process where the purchase order is generated for buying on the Internet as in Viswanath is carried out via a user graphical interface." (Examiner's Answer, pg. 8). Again, while this statement may or may not be true, it is respectfully noted that this naked assertion still fails to evidence that Viswanath, or any other reference of record, discloses, teaches, or suggests the desirability of using a graphical user interface tool for the purpose that is

expressly claimed, i.e., to create an IML file that includes both tags used to select data for inclusion in a document and tags used to specify both a page style for the document and how to display the selected data within the document. Rather, as discussed in the Appellant's Appeal Brief, in Viswanath the graphical user interface tool is only described as being used for the purpose of allowing an existing electronic catalog to be mapped to the e-procurement system disclosed within Viswanath. Thus, since no reference of record discloses, teaches, or suggests the claimed file created via use of graphical user interface tool that includes tags (whether IML or otherwise) that function to select data for inclusion in a document and to specify both a page style for the document and how to display the selected data within the document, it is respectfully submitted that the rejection of the claims under 35 U.S.C. § 103 must be withdrawn.

That the Examiner is impermissibly relying upon unsupported conclusions of what the Examiner felt would have been obvious as opposed to what is actually described within the references of record is further evidence by the Examiner's assertion that "...since Viswanath discloses using XML tags for selecting data to be included in a purchase order as well as displaying of the purchase order, Viswanath, thus **implies** that there are two different sets of tags in one file to control selecting data for the purchase order and to control displaying of the selected data for the purchase order." (Examiner's Answer, pg. 9; emphasis added). While this assertion evidences that Viswanath fails to expressly disclose that upon which the Examiner is relying in rendering the rejection of the claims, it is further respectfully noted that Viswanath, when fully and fairly considered in its entirety as is required, not only fails to imply that there are two different sets of tags *in one file* as is claimed but expressly describes, in direct contrast, the use of two different and distinct mechanisms to perform the individual functions of selecting data and formatting data to the end of creating a purchase order. Particularly, as discussed in the

Appellant's Appeal Brief, Viswanath describes a system in which a requisition request received at a translation engine is used to select data that is to be included in a to-be-created purchase order whereupon the translation engine functions to format the data selected according to the requisition request into an appropriate markup content for delivery as a purchase order with any formatting specified by the originally received requisition request being expressly disregarded by the translation engine. Thus, since Viswanath fails to expressly disclose, teach, or suggest the claimed file (whether created via use of graphical user interface tool or otherwise) that includes tags (whether IML or otherwise) that function to select data for inclusion in a document and to specify both a page style for the document and how to display the selected data within the document, it is respectfully submitted that the rejection of the claims under 35 U.S.C. § 103 must be withdrawn.

From the foregoing, it is respectfully submitted that the combination of Viswanath, Matsakis, and Peat cannot be said to disclose each and every element set forth within the claims at issue as is required of a *prima facie* case of obviousness. Furthermore, it is respectfully submitted that, were one of skill in the art to generate an invoice "as in Viswanath" as asserted in the Examiner's Answer on page 8, one of skill in the art would be lead to a system in which a first file is utilized to do nothing more than select data from an external source for inclusion within an invoice and a separate translation process, which disregards any formatting specified by the first file, is then utilized to merely "transform the XML content from an external source into an appropriate markup content for delivery..." Again, since this method for generating an invoice not only fails to include each and every element that is expressly recited within the claims at issue but is, in fact, in direct contrast to that which is set forth within the claims at

issue, it is respectfully submitted that the rejection of the claims under 35 U.S.C. § 103 must be withdrawn.

Conclusion

It is again respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the Board is respectfully requested.

Respectfully Submitted;

Date: October 15, 2007

By:

A handwritten signature in black ink, appearing to read 'G. Jarosh', written over a horizontal line.

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